

# EXHIBIT 25

**Lisa Mix**

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**From:** Ohring, Jonathan <JOhring@milbank.com>  
**Sent:** Tuesday, June 27, 2017 8:48 AM  
**To:** Christopher Stewart; Ashley Price  
**Cc:** Dan Drosman; Debra Wyman; Jessica Shinnfield; Robert Rothman; Antonia M. Apps; Lazar, Zachary; Akram, Amina  
**Subject:** RE: In re American Realty Capital Properties, Inc. Litigation (1:15-mc-00040-AKH)

Chris,

Your assertion that ARCP is causing "further delay" of Plaintiffs' receipt of third-party documents is baseless. The fact that you have not received documents from some third parties is due to Plaintiffs' decision to wait until April and May to serve the subpoenas, Plaintiffs' insistence that the third parties use broad search parameters, the ensuing lengthy negotiations of those searches between Plaintiffs and the third parties, and the need for the third parties to then conduct a review of a large volume of documents. ARCP has a right to review these documents for privilege. We have been reviewing the documents as we've received them, and have continued to produce privilege logs following the completion of our reviews.

In addition, your request that we produce privilege logs by July 7 for the documents of FTI, Teneo, Abernathy Macgregor, Joele Frank, and Goldman Sachs is arbitrary and unworkable, given that these third parties' documents have only recently been made available to ARCP (or in the case of Goldman Sachs, have not yet been made available). We are, however, endeavoring to complete our reviews in a timely manner. We expect that Abernathy's and FTI's documents will be produced to Plaintiffs this week. Joele Frank and Teneo have provided us with a large volume of documents, and our review of their documents will continue past July 7. As explained in my June 16 email below, we have not yet received documents from Goldman. Once we have completed our reviews, we will get back to you with respect to whether a privilege log is required, and if so, what form it should take.

Regards,

Jonathan

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**Jonathan Ohring | Milbank**  
28 Liberty Street | New York, NY 10005  
T: +1 212.530.5147 | F: +1 212.822.5147  
M: +1 757.784.2302  
[johring@milbank.com](mailto:johring@milbank.com) | [www.milbank.com](http://www.milbank.com)

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**From:** Christopher Stewart [mailto:CStewart@rgrdlaw.com]  
**Sent:** Friday, June 23, 2017 8:17 PM  
**To:** Ohring, Jonathan <JOhring@milbank.com>; Ashley Price <APrice@rgrdlaw.com>  
**Cc:** Dan Drosman <DanD@rgrdlaw.com>; Debra Wyman <DebraW@rgrdlaw.com>; Jessica Shinnfield <jshinnfield@rgrdlaw.com>; Robert Rothman <rrothman@rgrdlaw.com>; Apps, Antonia <AApps@milbank.com>; Lazar, Zachary <ZLazar@milbank.com>; Akram, Amina <AAkram@milbank.com>  
**Subject:** RE: In re American Realty Capital Properties, Inc. Litigation (1:15-mc-00040-AKH)

Jonathan,

Please begin producing to plaintiffs on a rolling basis all documents you have reviewed that were produced to you by FTI, Teneo, Abernathy Macgregor, and Joele Frank, over which you are not asserting any

protection. These are documents plaintiffs requested from these third parties, and there is no reason ARCP should cause any further delay of plaintiffs' receipt of these materials. Also, in the event ARCP is asserting any privilege or protection over any of the documents produced to you by FTI, Teneo, Abernathy Macgregor, Joele Frank, or Goldman Sachs, please confirm you will produce a document-by-document log with respect to all withheld documents, and that those logs will be provided prior to our meet and confer scheduled for July 7, 2017 so that we may address any issues we have with the logs.

Regards,  
Chris

Christopher D. Stewart  
Robbins Geller Rudman & Dowd LLP  
655 West Broadway, Suite 1900  
San Diego, CA 92101  
Tel 619 231 1058 | Fax 619 231 7423

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**From:** Ohring, Jonathan [<mailto:JOhring@milbank.com>]

**Sent:** Friday, June 16, 2017 12:55 PM

**To:** Ashley Price

**Cc:** Dan Drosman; Debra Wyman; Jessica Shinnfield; Robert Rothman; Christopher Stewart; Antonia M. Apps; Lazar, Zachary; Akram, Amina

**Subject:** RE: In re American Realty Capital Properties, Inc. Litigation (1:15-mc-00040-AKH)

Ashley,

In response to your request below, we confirm that ARCP will be providing a document-by-document privilege log with respect to the Grant Thornton documents withheld (for which you already have a categorical log), as well as for Mr. Reiter's and Mr. Wood's documents withheld on the basis of ARCP's privilege, by next week, but not for the other third parties on your list, for the reasons set forth below.

FTI Consulting: FTI Consulting has not yet provided us with documents to review. We do not yet know whether there will be documents to withhold, and will get back to you once we have reviewed those documents.

Teneo, Abernathy Macgregor, Joele Frank: Davis & Gilbert, which represents both Abernathy MacGregor and Joele Frank, has been providing documents for our review on a rolling basis, and delivered over 23,000 additional documents for our review just last week. We also have been receiving documents from Teneo on a rolling basis, and are actively reviewing a production of over 11,000 documents from Teneo. Once we have reviewed the documents, we will get back to you regarding the necessity of a privilege log.

E&Y: As we explained to you in Jonathan Ohring's April 27, 2017 email to Ashley Price, Milbank requested that E&Y make its work papers responsive to the subpoena available to Milbank, so that Milbank could review those documents for any applicable work product or other privilege on behalf of ARCP, prior to E&Y's production of documents. Our review determined that these documents are comprised of electronic workpapers collected or created by E&Y in connection with the Audit Committee investigation and stored in a single "Electronic Workpapers" file folder for that purpose, and hard copy workpapers of the same type. As such, breaking apart the work papers to list the contents on a document-by-document basis is not necessary. Additionally, it would reveal information concerning, *inter alia*, the focus, scope and time period of documents reviewed in connection with the Audit Committee investigation, and would therefore reveal privileged information. All of these workpapers are related to the Audit Committee's investigation, with respect to which you are challenging ARCP's privilege assertions in their entirety, and which will be the subject of ARCP's motion for a protective order. Please note that to the extent these documents were generated or shared by ARCP, and fell within the scope of your document requests, custodians and search terms, such documents would have been separately produced or logged, as appropriate, in connection with our review of ARCP

documents.

Weil Gotshal: It is our understanding that Weil will provide their own privilege log.

Other Third Parties:

- Matthew Peel: Mr. Peel's counsel has provided you with a privilege log, including documents over which ARCP has asserted privilege.
- Abby Wenzel: We understand that Ms. Wenzel's counsel will be producing their own privilege log, including documents over which ARCP has asserted privilege.
- Michael Reiter: We will provide you with a document-by-document log next week with respect to Mr. Reiter's documents over which ARCP has asserted privilege.
- Leonard Wood: We will provide you with a document-by-document log next week with respect to Mr. Wood's documents over which ARCP has asserted privilege.
- Goldman Sachs: Goldman has not yet provided us with any documents for our review, and we have not yet asserted privilege over any Goldman documents. We understand that Goldman plans to make documents available for our review prior to their next production. Once we have received and reviewed those documents, we will get back to you with respect to any privilege log that may be required.

Regards,

Jonathan

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**Jonathan Ohring** | **Milbank**  
28 Liberty Street | New York, NY 10005  
T: +1 212.530.5147 | F: +1 212.822.5147  
M: +1 757.784.2302  
[johring@milbank.com](mailto:johring@milbank.com) | [www.milbank.com](http://www.milbank.com)

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**From:** Ashley Price [<mailto:APrice@rgrdlaw.com>]  
**Sent:** Tuesday, June 13, 2017 8:13 PM  
**To:** Lazar, Zachary <[ZLazar@milbank.com](mailto:ZLazar@milbank.com)>  
**Cc:** Dan Drosman <[DanD@rgrdlaw.com](mailto:DanD@rgrdlaw.com)>; Debra Wyman <[DebraW@rgrdlaw.com](mailto:DebraW@rgrdlaw.com)>; Jessica Shinnfield <[jshinnfield@rgrdlaw.com](mailto:jshinnfield@rgrdlaw.com)>; Robert Rothman <[rrothman@rgrdlaw.com](mailto:rrothman@rgrdlaw.com)>; Christopher Stewart <[CStewart@rgrdlaw.com](mailto:CStewart@rgrdlaw.com)>; Apps, Antonia <[AApps@milbank.com](mailto:AApps@milbank.com)>; Ohring, Jonathan <[JOhring@milbank.com](mailto:JOhring@milbank.com)>  
**Subject:** RE: In re American Realty Capital Properties, Inc. Litigation (1:15-mc-00040-AKH)

Zach:

Please confirm that ARCP will be providing privilege and redaction logs with individual entries for all third-party documents over which ARCP has asserted privilege.

The following third parties have informed us that ARCP has asserted privilege over their documents and that they are not producing certain or all documents pursuant to that privilege:

Grant Thornton  
E&Y  
Weil Gotshal  
FTI Consulting  
Teneo  
Abernathy Macgregor  
Joele Frank

Please provide a list of any other third parties, including any former employees, over whose documents ARCP has asserted privilege, and confirm that ARCP will provide those logs by the end of this week so that plaintiffs have an opportunity to review those logs in advance of the June 22 deadline.

Regards,  
Ashley

**Ashley M. Price**

**Robbins Geller  
Rudman & Dowd LLP**

655 West Broadway, Suite 1900  
San Diego, CA 92101

Tel 619 231 1058 | Fax 619 231 7423



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